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*Attorneys for Named Plaintiffs and the FLSA  
Collective Plaintiffs*

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

-----X  
**SALIM SHAHRIAR, MUHAMMAD ISLAM,  
AND MARY HARVEY on behalf of  
themselves and all others similarly situated,**

**INDEX NO: 08-cv-00057**

**Plaintiffs,**

v.

**SMITH & WOLLENSKY RESTAURANT  
GROUP, INC. d/b/a PARK AVENUE  
RESTAURANT AND FOURTH WALLS  
RESTAURANTS LLC, d/b/a PARK  
AVENUE RESTAURANT,**

**Defendants.**

-----X

**NOTICE OF PLAINTIFF'S MOTION FOR CONDITIONAL COLLECTIVE  
CERTIFICATION AND FOR COURT FACILITATION OF NOTICE  
PURSUANT TO 29 U.S.C. § 216(b)**

Please take notice that upon the accompanying Memorandum of Law and annexed materials, Plaintiffs, on behalf of themselves and all others similarly situated, by their undersigned attorneys, shall move the Court before the Honorable Miriam G. Cedarbaum, at the United States Courthouse for the Southern District of New York, 500

*The parties have agreed to provide the information requested. Accordingly, the motion is withdrawn.*  
S/ *United States District Judge*  
S/ *May 6, 2008*

Pearl Street, New York, New York, on such day and time as counsel may be heard, for the following relief in this Fair Labor Standards Act collective action:

- (1) Conditional certification of this action as a representative collective action pursuant to the FLSA, 29 U.S.C. § 216(b) on behalf of all persons employed by Defendants in any tipped position, including but not limited to captains, front waiters, back waiters, servers, runners, and/or busboys ("Covered Employees") within the last three years (the "FLSA Period");
- (2) Court facilitated notice of this FLSA action to the Covered Employees including a consent form (opt-in form) as authorized by the FLSA.
- (3) Approval of the proposed FLSA notice of this action and the consent form.
- (4) Production of the Covered Employees in a computer readable data file containing their names, last known mailing addresses, telephone numbers, Social Security numbers, work locations, and dates of employment.

(5) Posting of the Notice, along with the consent forms, in each of Defendants' locations where Covered Employees are employed.

Dated: New York, New York  
February 20, 2008

Respectfully submitted,

JOSEPH & HERZFELD LLP

By: /s/D. Maimon Kirschenbaum  
D. Maimon Kirschenbaum (DK-2338)

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*Attorneys for Plaintiff, proposed collective action  
members and proposed class*

UNITED STATES DISTRICT COURT  
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Defendants.

-----x  
ORDER

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, 2008, upon consideration of Plaintiff's Motion for Conditional Collective Certification Pursuant to 29 U.S.C. § 216(b), and Defendants' response thereto, if any, it is hereby ORDERED, that Plaintiff's Motion is GRANTED.

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Judge Miriam G. Cedarbaum

**CERTIFICATE OF SERVICE**

The undersigned counsel hereby certifies that on February 21, 2008, he caused a true and correct copy of the Plaintiff's Motion for Conditional Collective Certification and for Court Facilitation of Notice Pursuant to 29 U.S.C. § 216(b), supporting memorandum of law, attached exhibits and appendix of unpublished cases to be served by CM/ECF upon the counsel of record listed below:

Michael Weber  
Christina Feege  
Littler Mendelson, P.C.  
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By: /s/ D. Maimon Kirschenbaum  
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